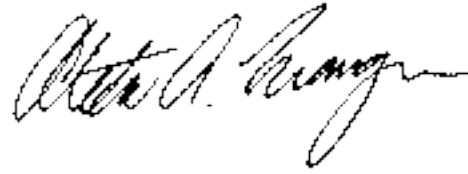


IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION



UNITED STATES OF AMERICA	)	
	)	
v.	)	CASE NO. 3:10-00278
	)	
DAVID A. MARTIN	)	JUDGE TRAUGER

**DEFENDANT'S FOURTH MOTION TO CONTINUE THE TRIAL DATE**

Defendant David A. Martin, by and through undersigned counsel, does hereby move the Court to continue the trial date which is presently set for Tuesday, September 4, 2012 at 9:00 a.m. (Docket Entry No. 46) Undersigned counsel met with Mr. Martin on August 8, 2012 and discussed the issues raised in this motion to continue the trial. Attached as **Exhibit A** is a waiver of the Speedy Trial Act.

Undersigned counsel was appointed to represent Mr. Martin on or about August 23, 2011. (Docket Entry No. 33) Mr. Martin, who is charged with illegal entry after being convicted of an aggravated felony in violation of 8 U.S.C. § 1326(a), has raised an issue as to the use of a 1997 Louisiana state court drug conviction as the requisite "aggravated felony" to support a conviction under § 1326(a).

As was brought to the Court's attention in a previous motion (Docket Entry No. 34), Mr. Martin alleges ineffective assistance of counsel as to the manner in which he entered a plea of guilty in August 1997 to the Louisiana drug charge, and more specifically, whether there was a violation based on *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010). There is a split among the circuit courts as to whether *Padilla* applies retroactively, and that question may be answered during the October term